

CALIFORNIA FRANCHISE TAX BOARD

Legal Ruling No. 015

June 27, 1958

DEDUCTIONS: INDIANA GROSS INCOME TAX

Syllabus:

The Indiana Gross Income Tax is deductible in computing net income under the Personal Income Tax Law.

Advice is requested as to whether the Indiana Gross Income Tax is deductible in computing net income under the Personal Income Tax Law. The tax in question is a tax on all persons (including corporations) engaged in certain businesses and is based on the entire gross income derived from sources within Indiana. Under the regulations pertaining to the tax the term "gross income" is stated to be synonymous with the term "gross receipts" and no deduction is allowed for cost of goods sold, cost of materials used, labor costs, etc.

Deductibility of the Indiana Gross Income Tax under Section 8 (c), Franchise Tax Act, was considered in 1941 and was determined at that time to be deductible, it being held to be a gross receipts tax rather than an income tax. Section 17305 of the 1954 Personal Income Tax Law (now Section 17204) is the same as Section 8 (c), Franchise Tax Act, in this respect and the same result should follow. All of these sections provide for a deduction of taxes excepting, among other taxes not material here, taxes on or according to or measured by income or profits. Reconsideration of the basis and nature of the tax re-affirms the conclusion previously reached that it is measured by gross receipts rather than income as the latter term is more commonly understood. The fact that the tax is titled a gross income tax is not controlling. The Indiana Tax authorities have provided by regulation that the term "gross income" is synonymous with the term "gross receipts" for the purposes of the tax in question. They further point out that gross receipts is the basic measure of the tax imposed, there being no deduction for cost of goods sold, etc. Thus, there is no element of gain derived from capital, from labor, and from both combined, which elements constitute the accepted legal and accounting definition of income. Inasmuch as the tax is not measured by income as so defined it is not within the exception to the deduction provision of Section 17305 of the 1954 Personal Income Tax Law (now Section 17204) and, therefore, is deductible.